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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 MITCHELL KEITH GOODRUM,

Case No. 3:20-cv-00543-MMD-WGC

7 Plaintiff,

ORDER

8 v.

9 NUGGET CASINO OWNERS, *et al.*,

10 Defendants.

11 *Pro se* Plaintiff Mitchell Keith Goodrum brings this action under 42 U.S.C. § 1983.
12 Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of
13 United States Magistrate Judge William G. Cobb (ECF No. 5), recommending the Court
14 grant Goodrum’s application to proceed *in forma pauperis* (ECF No. 3), file Goodrum’s
15 complaint (ECF No. 1-1), dismiss his § 1983 claims with prejudice, dismiss his state law
16 negligence claim without prejudice so that Goodrum may refile in state court, and deny
17 Goodrum’s motion for appointment of counsel (ECF No. 4) as moot. Goodrum had until
18 April 22, 2021 to file an objection. To date, no objection to the R&R has been filed. For
19 this reason, and as explained below, the Court adopts the R&R, and will grant the
20 application to proceed *in forma pauperis*, file the Complaint, dismiss Goodrum’s claims,
21 and deny his appointment of counsel motion as moot.

22 The Court “may accept, reject, or modify, in whole or in part, the findings or
23 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
24 fails to object to a magistrate judge’s recommendation, the Court is not required to
25 conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas*
26 *v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114,
27 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
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1 recommendations is required if, but *only* if, one or both parties file objections to the
2 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory
3 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
4 clear error on the face of the record in order to accept the recommendation.”).

5 Because there is no objection, the Court need not conduct de novo review, and is
6 satisfied Judge Cobb did not clearly err. Here, Judge Cobb first recommends the Court
7 grant Goodrum’s application to proceed *in forma pauperis* because Goodrum has
8 demonstrated he cannot pay the initial filing fee. (ECF No. 5 at 3.) Judge Cobb next
9 recommends that Goodrum’s § 1983 claims be dismissed with prejudice as to both
10 defendants because the “Nugget Casino Owners” and Nugget Casino employee Dallas
11 Johnson are not public actors, but at all times relevant to this case were working privately
12 as a business. (*Id.* at 5.) Because no amendment would cure the fact that Goodrum
13 cannot bring § 1983 claims against these defendants, Judge Cobb recommends
14 dismissing those claims with prejudice and without leave to amend. (*Id.*) To the extent
15 Goodrum wishes to pursue his negligence theory, Judge Cobb recommends the Court
16 dismiss the state law claim without prejudice so that Goodrum may do so in state court.
17 (*Id.*) Because no claims would remain in this case, Judge Cobb further recommends
18 denying Goodrum’s motion for appointment of counsel as moot. (ECF No. 4.) The Court
19 agrees with Judge Cobb. Having reviewed the R&R and the record in this case, the Court
20 will adopt the R&R in full.

21 It is therefore ordered that Judge Cobb’s Report and Recommendation (ECF No.
22 5) is accepted and adopted in full.

23 It is further ordered that Goodrum’s application to proceed *in forma pauperis* (ECF
24 No. 3) is granted. Goodrum will not be required to pay an initial installment fee.
25 Nevertheless, the full filing fee will still be due, pursuant to 28 U.S.C. § 1915, as amended
26 by the Prison Litigation Reform Act. The movant herein is permitted to maintain this action
27 to conclusion without the necessity of prepayment of fees or costs or the giving of security
28 therefor.

1 It is further ordered that, pursuant to 28 U.S.C. § 1915, as amended by the Prison
2 Litigation Reform Act, the Nevada Department of Corrections will forward payments from
3 the account of Mitchell Goodrum, #1213846, to the Clerk of the United States District
4 Court, District of Nevada, 20% of the preceding month's deposits (in months that the
5 account exceeds \$10.00) until the full \$350 filing fee has been paid for this action. The
6 Clerk of the Court will send a copy of this order to the Finance Division of the Clerk's
7 Office. The Clerk will send a copy of this order to the attention of Chief of Inmate Services
8 for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV 89702.

9 It is further ordered that, even if this action is dismissed, the full filing fee still will
10 be due pursuant to 28 U.S.C. §1915, as amended by the Prison Litigation Reform Act.

11 The Clerk of Court is directed to file the complaint (ECF No. 1-1).

12 It is further ordered that Goodrum's § 1983 claims are dismissed with prejudice
13 and without leave to amend.

14 It is further ordered that Goodrum's negligence claim is dismissed without
15 prejudice so that he may raise the claim in state court.

16 It is further ordered that Goodrum's motion for appointment of counsel (ECF No.
17 4.) is denied as moot.

18 The Clerk of Court is directed to enter judgment accordingly and close this case.

19 DATED THIS 3rd Day of May 2021.

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22 MIRANDA M. DU
23 CHIEF UNITED STATES DISTRICT JUDGE
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